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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,964	09/19/2000	William R. Babbitt	5922-56160	5387

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EXAMINER

JUBA JR, JOHN

ART UNIT PAPER NUMBER

2872

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/663,964

Applicant(s)

BABBITT ET AL.

Examiner

John Juba

Art Unit

2872

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 November 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

JOHN JUBA  
*John Juba*  
PRIMARY EXAMINER  
ART UNIT 2872

Continuation of 5. does NOT place the application in condition for allowance because: Argument regarding anticipation by Weiner, et al relies as, "a first matter" upon features not recited in the claims. Applicant alleges that the examiner failed to show that the fringe pattern of the reference is identical to the claimed ordered assemblage of gratings. The examiner identified specific passages describing the functionality of one embodiment (in "III. Experimental Results"). It is believed to be readily apparent that the associated structure is described by the reference in the passages preceding the results (i.e., "II. Experimental Setup"). One of ordinary skill would understand Section II as describing an assemblage of gratings ordered in accordance with the spectral distribution of the dispersed pulse. Applicants have not identified any specific feature in the claims not anticipated by such a structure. Insofar as there is no rebuttal presented with respect thereto, Applicants apparently acquiesce in response to the alleged anticipation of claims 27-31, 33, 35-38, and 40-43 by Kashyap, et al (5,530,666) as well as in response to the alleged obviousness of claims 34, 39, 53, and 54 over Kashyap, et al, in view of BRITISH TELECOMM (WO 93/14424). Applicants' rebuttal of the Kashyap, et al reference concerns claim 44 alone. The examiner believes that one of ordinary skill would understand that a "router" may comprise any number of "gates". That is, what distinguishes a router is not necessarily the structure, but the manner in which the structure is operated. In the instant case, the gate of Kashyap, et al selectively routes data to the output port in response to the input control signals. That is, the gate is not disclosed alone, but rather as cooperating with the remaining components to perform the function within the specificity recited in claim 44. ..